

# LIVONIA JOINT ZONING BOARD OF APPEALS

August 19<sup>th</sup>, 2024 **DRAFT**

Present: Chairman M. Sharman, R. Bergin, D. Major, M. Thompson, CEO Adam Backus  
Zoning, Compliance Assistant Julie Holtje.

Excused: J. Prato, Attorney J. Campbell.

**AGENDA:** (1) *Accept and approve the meeting minutes of July 15, 2024.*

(2) *John & Jennifer Pontillo – 3495 Pebble Beach Road, Livonia, NY*

(3) *Dollar General – 4797 Main Street, Hemlock, NY*

(4) *Matt & Charmagne Flanigan – 4382 East Lake Road, Livonia, NY*

Chairman Mike Sharman brought the meeting to order at 7:00 p.m. and opened with the Pledge of Allegiance.

Chairman Mike Sharman asked if everyone reviewed the meeting minutes from July 15, 2024. The Board agreed they had, and a motion was made to approve the minutes. M/2/C (R. Bergin/M. Thompson) Carried: 3-0. D. Major abstained since he was absent from that meeting.

(2) *John & Jennifer Pontillo – 3495 Pebble Beach Road, Livonia, NY*

**This meeting is a one-year follow-up to a Variance granted on August 7, 2023.**

John Pontillo brought the board up to date on the status of his addition project. He is ready to insulate and drywall as soon as they complete the electrical inspection. CEO A. Backus clarified the goal of the one-year review was to make sure that conditions of the approval were complied with when the project was finished. The project is not finished yet, so the conditions are not met at this time.

John predicted the time of completion to be late October. When the utility/landscape trailer is not in use, it will be in the rear of the property. Rental equipment will be stored off-site or inside as per the original approval.

(3) *Dollar General – 4797 Main Street, Hemlock, NY*

**PLEASE TAKE NOTICE** that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, August 19, 2024, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of the Dollar General (Hemlock), for an area variance pursuant to Section 150-17C of the Zoning Code of Livonia. This area variance is requested for a proposed free-standing business Sign that violates requirements according to Section 150-97 C (1). A free-standing business sign shall be no larger

# LIVONIA JOINT ZONING BOARD OF APPEALS

August 19<sup>th</sup>, 2024

**DRAFT**

than 20 square feet in area. The existing/built sign is 34 square feet. This property is located at 4797 South Main Street, Livonia, New York, and is zoned Mixed Use Hamlet District (MUH). The application is on file in the Building Zoning Department in the Livonia Town Hall, 35 Commercial Street, Livonia, New York, for public review. All interested parties will be heard at this time.

ZCA J. Holtje polled the Board for site visits:

Chair M. Sharman:	Yes
R. Bergin:	Yes
D. Major:	Yes
M. Thompson	Yes

Chairman Mike Sharman asked Ivan Lozina, Senior Vice President of Construction of GBT Realty to come forward for the proposed 34 Sq. Ft. business Sign.

This application was submitted to the Livingston County Planning Board for their review. They determined that it has no significant Countywide or inter-municipal impact. Approval or disapproval of this application is a matter of local option.

This application was determined to be a Type II action, and SEQR was not required per (# 12) of the New York Codes, Rules, and Regulations 617.5 Type II Actions.

Chairman Mike Sharman opened the Public Hearing, and with no one from the public in attendance, Chairman Mike Sharman closed the Public Hearing.

Ivan Lozina representing the property owner (not Dollar General- who is the tenant in the building), explained that they have experienced a lot of turnover and he was unable to figure out how the mistake in the size of the sign was made. He asks the Board for understanding. The sign is one of the nicest looking signs they have built and with the amount of road frontage on the property, it fits well. They could modify the sign, but they prefer to leave it.

Discussion:

- M. Sharman: thought the sign could be seen better if the trees to the south were removed.
  - The trees are not on the applicant's property.
- ZCA J. Holtje gave the historical context of the sign approval. The existing dimensions were submitted and rejected. The sign was then redesigned and approved at 20 square feet.
  - I. Lozina: The revision must never have gotten to the contractor.
- The Board agreed that the sign does look nice and doesn't appear too large
- D. Major – noted that it is the principle of exceeding the regulations, not the actual sign size that bothers him.
- Landscaping and property maintenance are the responsibility of the tenant, Dollar General. CEO A. Backus explained that the layers of disconnect between Dollar General and the property owner make good communication and resolving problems difficult.

# LIVONIA JOINT ZONING BOARD OF APPEALS

August 19<sup>th</sup>, 2024

**DRAFT**

There seems to be a business practice that attempts to create a barrier between the property owner and tenant.

- I. Lozina: this is a triple net lease where the tenant is responsible for everything inside the store and on the property. He will gladly pass along these comments to Dollar General.

Chairman Mike Sharman asked the Board to go through the area variance criteria:

1. Will an undesirable change be produced in the character of the neighborhood, or will a detriment to nearby properties be created by granting the variance? No
2. Can the benefit sought by the applicant be achieved by some feasible method other than a variance? Yes – Reconstruct Sign as approved.
3. Is the variance substantial? Yes - 14 Sq. Ft.
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood? No
5. Is the alleged difficulty self-created? Yes

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the Area Variance for the proposed 34 sq. ft. business sign. Mike Sharman made a motion to approve the application for the 34 Sq. ft. sign and allow the sign that was constructed to stay with the condition that if for any reason it needs to be changed or removed, the size will be brought into compliance, or the applicant return to the Planning and/or Zoning Board and request the size sign they would like to propose at that time. Motion to approve. M/2/C (M. Sharman/R. Bergin)  
Carried: 4-0

#### *(4) Matt & Charmagne Flanigan – 4382 East Lake Road, Livonia, NY*

**PLEASE TAKE NOTICE** that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a Public Hearing on Monday, **August 19, 2024**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of **Matt & Charmagne Flanigan** for a for an area variance pursuant to Section 150-17C and a Conditional Use Permit pursuant to Section 150-17 B of the Zoning Code of Livonia. A Conditional Use Permit is requested per Section 150-31 D (1) for the conversion and expansion of an existing detached garage into an accessory dwelling unit. An area variance is requested for the proposed accessory dwelling unit, which violates Sections 150-60(D); the accessory dwelling unit shall not exceed 40% of the area of the principal dwelling unit and Section 150-31 G (1.) front setback. This property is located at **4382 East Lake Road**, Livonia, New York, Tax Parcel # 83.24-1-2, and is Zoned Neighborhood Residential District (NR). The application is on file in the Building & Zoning Department in the Livonia Town Hall, 35 Commercial Street, Livonia, New York, for public review. All interested parties will be heard at this time.

# LIVONIA JOINT ZONING BOARD OF APPEALS

August 19<sup>th</sup>, 2024

**DRAFT**

ZCA J. Holtje polled the Board for site visits:

Chair M. Sharman:	Yes
R. Bergin:	Yes
D. Major:	Yes
M. Thompson	Yes

Chairman Mike Sharman asked Matt & Charmagne Flanigan and their Architect, Todd Audsley of Smart Design, to come forward for the proposed Accessory Dwelling unit.

This application was submitted to the Livingston County Planning Board for their review. They determined that it has no significant Countywide or inter-municipal impact. Approval or disapproval of this application is a matter of local option.

This application was determined to be a Type II action, and SEQR was not required per (# 11,12, 16 & 17) of the New York Codes, Rules, and Regulations 617.5 Type II Actions.

Chairman Mike Sharman opened the Public Hearing, and with no one from the public in attendance, Chairman Mike Sharman closed the Public Hearing.

Todd Audsley outlined the project and referred to the architectural drawings. The Flanigan's want to stay on their property and would like their daughter to be able to raise her family there also. The house is not able to be added onto without expanding the footprint. The logical answer is that there is already a detached building that could be turned into living space. The garage footprint is existing and they propose to use that structure and build up. The first floor of the garage will have 2 bedrooms and a bathroom and they would like to build a second story for the living room, dining room and kitchen. The garage was built prior to the Flanigan's ownership. Cars will be parked in front of the garage and there is more parking in the driveway going down alongside the garage. They propose to build 8' out over the yard, toward the west common area, within the lot. This space is needed to make room for the 2 bedrooms, the staircase, and laundry. This design keeps this family where they want to be and improves the streetscape.

The one-foot overhang on the second floor toward the street was needed to make the kitchen space work better and adds some architectural interest.

Board Discussion:

- R. Bergin- an accessory dwelling is not supposed to exceed 40% and they are asking for 65%. Is any of that storage?  
-T. Audsley- the garage space at street level is going away, the 65% is all living space. The ground floor of the garage, the foundation, is storage and will always be basement storage. This project proposes the change of a one-story garage with basement storage into a two-story dwelling with the same basement for storage.
- ZCA J. Holtje and CEO A. Backus- we have noticed that with these applications, when parents are staying on the property, but downsizing, the 40% is often not enough to

# LIVONIA JOINT ZONING BOARD OF APPEALS

August 19<sup>th</sup>, 2024

**DRAFT**

provide adequate living space when dependent on the primary dwelling size. This is a different scenario than trying to get more bedrooms for a rental/commercial opportunity. This application seems to be more in line with the current housing needs, providing a way for families to age in place and avoid the burdens of alternative housing/care.

- A. Backus updated the Board on the stormwater that flows through the site and let the Flanigan's know that the Building and Zoning Department has tried to make sure that the recent improvements at Camp Stella Maris have accounted for runoff and not increased stormwater, which might adversely affect them.
- Discussion about the height. It is under the 35' maximum zoning requirement.

With no further comments from the Board, Chairman Mike Sharman asked the Board to go through the area variance criteria:

1. Will an undesirable change be produced in the character of the neighborhood, or will a detriment to nearby properties be created by granting the variance? No
2. Can the benefit sought by the applicant be achieved by some feasible method other than a variance? No
3. Is the variance substantial? No
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood? No
5. Is the alleged difficulty self-created? Yes

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the Area Variance for the Accessory Dwelling unit. Rosemary Bergin made a motion to approve the application for the existing 15' front setback on the main structure, a 13.0-foot setback for the second-story overhang, and for an accessory dwelling unit that is 65.6% of the primary dwelling (approx. 1903 Sq. Ft.). Motion to approve. M/2/C (R. Bergin/M. Sharman) Carried: 4-0

Chairman Mike Sharman asked the Board to go through the Conditional Use Permit criteria:

- (1)** Will the proposed building or use be in harmony with the general purpose, goals, objectives, and standards of the Comprehensive Plan, this chapter, and, where applicable, Chapter [125](#), Subdivision of Land?  Yes  No
- (2)** Will the proposed building or hours of operation or use not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting public health, safety, and general welfare?  Yes  No
- (3)** Will the proposed building or use be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations?  Yes  No

**LIVONIA JOINT ZONING BOARD OF APPEALS**

**August 19<sup>th</sup>, 2024**

**DRAFT**

- (4)** Will the proposed building or use be adequately served by essential public facilities and services?  
 Yes  No
- (5)** Will the proposed building or use comply with all additional standards imposed on it by the particular provision of this chapter authorizing such use?  Yes  No
- (6)** Have all steps possible been taken to minimize any adverse effects of the proposed building or use in the immediate vicinity through building design, site design, landscaping, and screening?  Yes  No
- (7)** If appropriate, a performance bond or other suitable financial guarantee has been provided to assure compliance with the conditions of the conditional use permit.  Yes  No  N/A

Chairman Mike Sharman asked the Board for a motion to approve or disapprove the proposed Conditional Use Permit. R. Bergin made a motion to approve the Conditional Use Permit to allow the Accessory Dwelling Unit of 1903+/- sq. ft.

Discussion: D. Major- would like to see a requirement that one of these dwellings will always be owner-occupied. CEO A. Backus stated that is a requirement of the Zoning regulation for accessory dwellings and it is a good idea to note in the approval letter.

Motion to approve. M/2/C (R. Bergin/M. Thompson) Carried: 4-0.

Chairman Mike Sharman asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 8:22 p.m. M/2/C (M. Thompson/R. Bergin). Motion carried: 4-0

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Respectfully submitted,  
Julie Holtje